

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**NATIONAL AMERICAN INSURANCE  
COMPANY, an Oklahoma corporation,**

**Plaintiff,**

**vs.**

**W&G, INC., a Nebraska corporation,  
REPUBLIC WESTERN INSURANCE  
COMPANY, an Arizona corporation,  
COLBERG HARVESTING INC., a  
Kansas corporation, and COLBERG  
TRANSPORTATION INC., a Kansas  
corporation,**

**Defendants.**

**CASE NO. 8:03CV281**

**JUDGMENT**

For the reasons stated in the Memorandum and Order on Cross-Motions for Summary Judgment dated March 8, 2005 (Filing No. 64) and in the Memorandum and Order on W&G, Inc.'s Motion for Summary Judgment on Attorney Fees (Filing No. 68),

Declaratory Judgment is entered as follows:

1. The insurance coverage provided by Republic Western Insurance Company's policy is primary to the insurance coverage provided in National American Insurance Company's commercial automobile policy for the accident that occurred on August 13, 2001, which is the subject of the underlying litigation; and
2. Based on National American Insurance Company's failure to reserve its right to dispute coverage under its policy at a later time when it tendered W&G's defense to Republic Western Insurance Company, National American Insurance Company is estopped from denying coverage under its policy to

W&G, Inc., and National American Insurance Company has relinquished any right it may have had to contribution from Republic Western Insurance Company for the amounts it contributed on behalf of W&G, Inc. to the settlement of the underlying litigation and for the amount that it spent in W&G, Inc.'s defense.

In addition,

Judgment is entered in favor of W&G, Inc. and against National American Insurance Company in the amount of \$10,211.63, representing the reasonable attorney fees and expenses that W&G, Inc., incurred in defending its right to insurance coverage under the National American Insurance Company policy in this action.

Dated this 25<sup>th</sup> day of May, 2005.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge